

#11  
Election  
10/4/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: USHIO=2

In re Application of:	)	Art Unit: 1648
	)	
USHIO et al.	)	Examiner: Zachariah Lucas
	)	
Appln. No.: 09/716,356	)	Washington, D.C.
	)	
Filed: November 21, 2000	)	April 9, 2002
	)	
For: INTERFERON- $\gamma$ INDUCING	)	
POLYPEPTIDE, PHARMACEUTICAL	)	Confirmation No. 8174
COMPOSITION THEREOF,	)	
MONOCLONAL ANTIBODY THERETO,	)	
AND METHODS OF USE	)	

**RESPONSE**

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Office Action of March 13, 2002, primarily in the nature of a restriction requirement, has been carefully reviewed.

Restriction has been required between what the PTO deems to be six patentably distinct inventions (Groups I-VI).

Applicants hereby provisionally elect with traverse Group I, presently comprising claims 1-9 and 18-61.

The requirement is respectfully traversed on the basis of the second paragraph of MPEP §803 which requires that there be a "serious burden" in order to make a restriction requirement, even if the requirement is otherwise correct. It should be noted that the claims of Groups I, II and III were examined together in parent application 08/832,180, which issued as U.S. Patent No. 6,214,584.

In re of Appln. No. 09/716,356

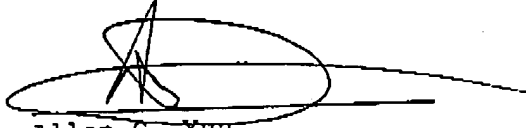
Reconsideration and withdrawal of the restriction requirement are respectfully requested.

Favorable consideration and examination of all the claims on the merits are respectfully requested.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By



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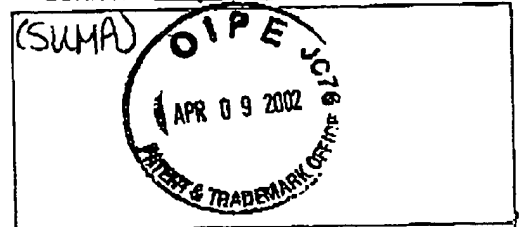
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APPLICANT(S): USHID et al  
APPLICATION NO: 09/710,356

THE PATENT AND TRADEMARK OFFICE STAMP  
HEREON ACKNOWLEDGES RECEIPT OF THE  
FOLLOWING PAPERS:

- ☐ FEES \$ \_\_\_\_\_  
☐ PTO FORM 2038 ☐ (CH. # \_\_\_\_\_)  
☐ EXTENSION OF TIME (\_\_\_\_\_ MONTHS)  
☐ TRANSMITTAL LETTER  
☐ MISSING PARTS RESPONSE WITH DECL  
☒ AMENDMENT RESPONSE (circle one)  
☐ PRELIMINARY ☐ SUPPLEMENTAL  
☐ APPLICATION DATA SHEET  
☐ RESTRICTION/ELECTION REPLY  
☐ SEQUENCE LISTING ☐ WITH DISK  
☐ RCE / OPA TRANSMITTAL (circle one)  
☐ NOTICE OF APPEAL  
☐ APPEAL BRIEF (TRIPLICATE)  
☐ REPLY BRIEF (TRIPLICATE)  
☐ OTHER \_\_\_\_\_

DOCKET NO: USHID=2  
CONF. NO: 8179



- ☐ ASSIGNMENT  
☐ INFORMATION DISCLOSURE STATEMENT  
☐ FORM 1449 & \_\_\_\_\_ PATENTS/PUBS  
☐ PRIORITY DOCUMENT(S) NO. \_\_\_\_\_  
☐ DECLARATION UNDER § \_\_\_\_\_  
☐ LETTER TO DRAFTSMAN  
☐ \_\_\_\_\_ SHEETS OF DRAWINGS  
☐ ISSUE FEE TRANSMITTAL FORM  
☐ MAINTENANCE FEE LETTER

B&N-2

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PRACTICE SUPERVISED BY  
PRINCIPALS OF THE FIRMTELEFAX CONTROL SHEET

SENT TO:

EXAMINER Zachariah Lucas

DATE SENT:

October 4, 2002

SUBJECT:

USHTO=2 (USSN: 09/716,356)

No. of pages (including this cover sheet):

5

FROM:

Pamela Parker on behalf of Allen C. Yun

Remarks:

Here is the requested response filed on  
April 9, 2002, along with a copy of the  
date stamped postcard receipt.

## CONFIDENTIALITY NOTE

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: USHIO et al.

Application No.: 09/718,356

Filed: November 21, 2000

For: INTERFERON-GAMMA (IFN- $\gamma$ ) INDUCING POLYPEPTIDE, PHARMACEUTICAL...

Confirmation No. 8174

Art Unit: 1648

Examiner: Zachariah Lucas

Washington, D.C.

Atty.'s Docket: USHIO=2

Date: April 9, 2002

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Sir,

Transmitted herewith is a ☐ Amendment ☒ RESPONSE

in the above-identified application.

☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.☒ No additional fee.☐ The fee has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)
CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	MINUS 20	0
INDEP.	MINUS 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM		

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 42	\$
+ 140	\$
ADDITIONAL FEE TOTAL	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 64	\$
+ 280	\$
TOTAL	

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
  - If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
  - If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.
- The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

POQ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

- ☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity  
Response Filed Within

☐ First - \$ 55.00

☐ Second - \$ 200.00

☐ Third - \$ 480.00

☐ Fourth - \$ 720.00

Month After Time Period Set

Other Than Small Entity  
Response Filed Within

☐ First - \$ 110.00

☐ Second - \$ 400.00

☐ Third - \$ 920.00

☐ Fourth - \$ 1440.00


Month After Time Period Set

☐ Less fees (\$ ) already paid for month(s) extension of time on

- ☐ Please charge my Deposit Account No. 02-4035 in the amount of \$
- ☐ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$.
- ☐ A check in the amount of \$ is attached (check no. ).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.18 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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